

underserved areas over a period of time.

§ 641.365 How must the equitable distribution provisions be reconciled with the provision that disruptions to current participants should be avoided?

Governors must describe the steps that are being taken to comply with the statutory requirement to avoid disruptions in the State Plan. (OAA sec. 503(a)(6)). When there are new Census data indicating that there has been a shift in the location of the eligible population or when there is over-enrollment for any other reason, the Department recommends a gradual shift that encourages current participants in subsidized community service positions to move into unsubsidized employment to make positions available for eligible individuals in the areas where there has been an increase in the eligible population. The Department does not define disruptions to mean that participants are entitled to remain in a subsidized community service employment position indefinitely. As discussed in §§ 641.570 and 641.575, grantees may, under certain circumstances, place time limits on an SCSEP community service assignment, thus permitting positions to be transferred over time. Grantees shall not transfer positions from one geographic area to another without first notifying the State agency responsible for preparing the State Plan and equitable distribution report. Grantees must submit, in writing, any proposed changes in distribution that occur after submissions of the equitable distribution report to the Federal Project Officer for approval. All grantees are strongly encouraged to coordinate any proposed changes in position distribution with the other grantees servicing in the State, including the State project director, prior to submitting the proposed changes to their Federal Project Officer for approval.

Subpart D—Grant Application, Eligibility, and Award Requirements

§ 641.400 What entities are eligible to apply to the Department for funds to administer SCSEP community service projects?

(a) *National grants.* Entities eligible to apply for national grants include nonprofit organizations, Federal public agencies, and Tribal organizations. These entities must be capable of administering a multi-State program. State and local agencies may not apply for these funds.

(b) *National grants in a State.* Section 514(e)(3) of the OAA permits nonprofit organizations, public agencies, and States to receive SCSEP funds when a national grantee in a State fails to meet its performance measures in the second and third year of failure. The poor performing grantee that had its funds competed is not eligible to compete for the same funds.

(c) *State grants.* Section 506(e) of the OAA requires the Department to enter into agreements with each State to provide SCSEP services. States may use individual State agencies, political subdivisions of a State, a combination of such political subdivisions, or a national grantee operating in the State to administer SCSEP funds. If the State's funds are competed under section 514(f) of the OAA, other agencies within the State, political subdivisions of a State, a combination of political subdivisions of a State, and national grantees operating in the State are eligible to apply for funds. Other States may not apply for this funding.

§ 641.410 How does an eligible entity apply?

(a) *General.* An eligible entity must follow the application guidelines issued by the Department. The Department will issue application guidelines announcing the availability of State and national SCSEP funds whether they are awarded on a competitive or non-competitive basis. The guidelines will contain application due dates, application instructions, and other necessary information. All entities must submit applications in accordance with the Department's instructions.

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(b) *National grant applicants.* All applicants for SCSEP national grant funds, except organizations proposing to serve older American Indians, must submit their applications to the Governor of each State in which projects are proposed before submitting the application to the Department. (OAA sec. 503(a)(5)).

(c) *State applicants.* A State that submits a Unified Plan under WIA section 501 may include the State's SCSEP community service project grant application in its Unified Plan. Any State that submits an SCSEP grant application as part of its WIA Unified Plan must address all of the application requirements as published in the Department's instructions. State Plan applications and modifications are addressed in §§ 641.340 and 641.345.

§ 641.420 What factors will the Department consider in selecting grantees?

The Department will select grantees from among applicants that are able to meet the eligibility and responsibility review criteria at section 514 of the OAA. (Section 641.430 contains the eligibility criteria and §§ 641.440 and 641.450 contain the responsibility criteria.) If there is a full and open competition, the Department also will take the rating criteria described in the Solicitation for Grant Application or other instrument into consideration, including the applicant's/grantee's past performance in any prior Federal grants or contracts for the past 3 years.

§ 641.430 What are the eligibility criteria that each applicant must meet?

To be eligible to receive SCSEP funds, each applicant must be able to demonstrate:

(a) An ability to administer a program that serves the greatest number of eligible participants, giving particular consideration to individuals with greatest economic need, greatest social need, poor employment history or prospects, and over the age of 60;

(b) An ability to administer a program that provides employment for eligible individuals in communities in which they reside, or in nearby com-

munities, that will contribute to the general welfare of the community;

(c) An ability to administer a program that moves eligible participants into unsubsidized employment;

(d) An ability to move participants with multiple barriers to employment into unsubsidized employment;

(e) An ability to coordinate with other organizations at the State and local levels, including the One-Stop Delivery System;

(f) An ability to properly manage the program, including its plan for fiscal management of the SCSEP program;

(g) An ability to minimize program disruption for current participants if there is a change in project sponsor and/or location, and its plan for minimizing disruptions; and

(h) Any additional criteria that the Secretary of Labor deems appropriate in order to minimize disruptions for current participants.

§ 641.440 What are the responsibility conditions that an applicant must meet?

Each applicant must meet each of the listed responsibility "tests" by not having committed any of the acts of misfeasance or malfeasance described in § 641.440(a)–(n) of this section.

(a) The Department has been unable to recover a debt from the applicant, whether incurred by the applicant or by one of its subgrantees or subcontractors, or the applicant has failed to comply with a debt repayment plan to which it agreed. In this context, a debt is established by final agency action, followed by three demand letters to the applicant, without payment in full by the applicant.

(b) Established fraud or criminal activity of a significant nature within the applicant's organization.

(c) Serious administrative deficiencies identified by the Department, such as failure to maintain a financial management system as required by Federal regulations.

(d) Willful obstruction of the auditing or monitoring process.

(e) Failure to provide services to applicants as agreed to in a current or recent grant or to meet applicable performance measures.